**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:**

**CWP.No.913/2000**

**Date of Decision :12.1.2007.**

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Vishal Sharma ….Petitioner.

Versus:

State of H.P. others. …..Respondents.

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Coram:

**The Hon'ble Mr.Justice Dev Darshan Sud,Judge.**

Whether approved for reporting?[1]

For the petitioner: Ms.Archana Dutt, Advocate.

For Respondents 1 to 3.Mr.C.B.Singh, Deputy Advocate General.

For respondent No.4. Mr.Ravinder Thakur, Central Government Counsel.

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**Dev Darshan Sud, J .**

This writ petition has been filed by the petitioner, who, is practicing as an Advocate at Una. His grievance in the writ petition is that he was entitled to receive the pensionary benefits of his late mother Smt.Nirmal Sharma who was serving as a J.B.T. Teacher initially at Nangal Kalan and later on in Government Primary School, Rainsary. According to the petitioner, his mother died on 30.8.1986 when he was 13

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

years of age and he was the only son. It is averred by him that at the time of his death, he was a minor and his guardian never informed the authorities regarding his entitlement to pension. After correspondence with the respondents, a sum of Rs.1,51,784/- was received by the petitioner as arrears of family pension. It is further alleged that he had represented to respondent No.3 for the payment of interest on the delayed payment which request was not acceded to by the respondents. In these circumstances, the petitioner prays that a writ of mandamus be issued directing the respondents to pay the interest at the rate of 18% per annum for 13 years.

In reply, the respondents have admitted that the petitioner was 13 years of old at the time of the death of his mother and the pension was paid to the father of the petitioner w.e.f. 1.9.1986 to 28.2.1987. Thereafter, no family pension was paid as the father of the petitioner re-married on 1.3.1986. After his re-marriage, the father of the petitioner submitted the pension papers to the Block Primary Education Officer on 18.1.1997 whereafter the case of the petitioner for the payment of pension was processed. In these circumstances, it is submitted that the dispute, if any, is inter-se between the father and the son and not between the department and the petitioner.

I have heard learned counsel for the parties and gone through the record.

The learned counsel appearing for the petitioner has relied upon ***Vijay L. Mehrotra Vs. State of U.P. and others***, 2000(2) SLR 686 and ***State of Punjab and others Vs. Manjit Kaur***, (2005) 12 Supreme Court Cases 250 in support of contention that he is entitled for interest. There is no dispute that in case of delayed payment interest would be payable. However, the pleadings on record shows that the father of the petitioner neglected to inform the respondents that it was the petitioner who was entitled to the payment of family pension. The dispute, if any, appears to be inter-se between the petitioner and his father who admittedly is not a party before this Court. If there was any communication gap, the respondents cannot be blamed for the same. In these circumstances, I do not find any merit in the case put forth by the petitioner. The writ petition is, therefore, dismissed. There shall be no order as to costs.

**( Dev Darshan Sud ),**
**Judge.**

January 12, 2007(R)